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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixtieth year

Identical letters dated 14 September 2005 from the Secretary-General to the President of the General Assembly and the President of the Security Council

I would like to inform you of a request from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 that directly relates to its ability to implement its Completion Strategy. The President has requested that Judge Christine Van Den Wyngaert, a national of Belgium, be able to serve in the trial in Case No. IT-95-13/1, *The Prosecutor* v. *Mrksic, et al.*, which commences on 3 October 2005.

You will recall that Judge Van Den Wyngaert's term of office as a member of the pool of ad litem judges came to an end on 11 June 2005. However, in response to my request as contained in my letter of 7 January 2005 (A/59/666-S/2005/9), the Security Council, by its resolution 1581 (2005) and the General Assembly, at its 80th plenary meeting, on 20 January 2005, decided, inter alia, that Judge Van Den Wyngaert should continue beyond the expiry of her term of office as an ad litem judge in order to finish the *Limaj* case. Judge Van Den Wyngaert continues to serve in that case which the President of the International Tribunal has indicated is due to be completed in November 2005.

Subsequently, on 19 November 2004, Judge Van Den Wyngaert was elected as a permanent judge of the International Tribunal with a four-year term beginning on 17 November 2005.

Consequently, the approval of the Security Council as the parent organ of the International Tribunal and the General Assembly as the organ that elects its judges

* A/60/150.

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would be need to allow Judge Van Den Wyngaert to serve as of 3 October 2005 on the *Mrksic* case, given that she has been authorized to continue her functions only as an ad litem judge in the *Limaj* case and that she will begin her elected four-year term as a permanent judge of the International Tribunal only on 17 November 2005.

I would therefore like to propose that the General Assembly and the Security Council authorize Judge Van Den Wyngaert's assignment to the *Mrksic* case as of 3 October 2005 as a permanent judge of the International Tribunal, notwithstanding the fact that her term as a permanent judge will begin only on 17 November 2005. This proposal, if approved, would for the period from 3 October to 17 November 2005, constitute an exception to article 12, paragraph 1, of the statute of the International Tribunal, which provides that the Chambers of the International Tribunal shall be composed of 16 permanent independent judges. Notwithstanding her early assignment to the *Mrskic* case, she would nevertheless be able to serve out her full four-year term ending on 16 November 2009.

I would also like to confirm that Judge Van Den Wyngaert's assignment to the *Mrskic* case would have no additional financial consequences for the International Tribunal.

I am sure that you will agree that it is highly desirable that every effort be made to ensure that the International Tribunal remains in the best position to achieve the target dates in its Completion Strategy. Allowing Judge Van Den Wyngaert to serve in the *Mrskic* case at this time will definitely assist in that purpose. I should accordingly be most grateful if you would bring the present letter to the immediate attention of the members of the General Assembly and the Security Council in order that they might take appropriate action on this matter as soon as possible.

(*Signed*) Kofi A. **Annan**

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Security Council

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15 September 2005

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Letter dated 7 September 2005 from the Permanent Representative of the Philippines to the United Nations addressed to the Secretary-General

I have the honour to inform you that, under the presidency of the Philippines, the Security Council is scheduled to have a debate on the subject "The role of civil society in conflict prevention and the pacific settlement of disputes" on Tuesday, 20 September 2005.

The presidency has prepared a non-paper to help guide the discussion on this subject (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Lauro L. **Baja**, Jr.
Permanent Representative

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Annex to the letter dated 7 September 2005 from the Permanent Representative of the Philippines to the United Nations addressed to the Secretary-General

The role of civil society in conflict prevention and the pacific settlement of disputes

Concept paper

Opportunities and challenges for cooperation

The Security Council plays a vital role in preventing disputes, preventing existing disputes from further escalating into conflicts and resolving conflicts if and when they occur. The upsurge of threats to international peace constrains the Security Council to act in tandem with other governments, relevant non-governmental and civil society organizations, the private sector, the academe and other actors and stakeholders in order to effectively discharge its role to preserve global peace.

A key goal contained in the United Nations Millennium Declaration is "to give greater opportunities to the private sector, non-governmental organizations and civil society, in general, to contribute to the realization of the Organization's goals and programmes", which include, in particular, the maintenance of international peace and security.

Non-governmental organizations, civil society, local authorities and the private sector can make positive contributions in the promotion and implementation of development, security and human rights programmes, and it is important that they be engaged with Governments, the United Nations and other international organizations in these key areas.

Article 33, paragraph 1, of the Charter of the United Nations provides that the parties to any dispute shall first of all seek a peaceful solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. This provision opens a window of opportunity for concerned Governments to consider availing themselves of programmes initiated by civil society to help promote understanding and peace through dialogue and cooperation.

Coordination and collaboration with civil society groups

While it is true that preventing a dispute from turning into armed confrontation is basically political in nature, parallel social and related processes can support the peace process. Coordination with civil society organizations in the peaceful settlement of disputes is beneficial and necessary, given their strength as neutral actors whose knowledge, abilities, experience, links with key constituencies, influence and resources contribute greatly to creating confidence among parties concerned.

They can operate in parallel with governmental and intergovernmental activities, complementing each other as stakeholders in the quest for peace and in building mutual understanding. Specific sectors of civil society that can be tapped to

assist parties in the search for peaceful solution to disputes, tensions and frictions are the academe, NGOs dedicated to conflict prevention, and the religious sector.

The academe is useful in organizing confidence-building activities, such as workshops and forums with the participation of parties to a dispute to examine from an academic perspective the internal, bilateral and regional implications of disputes and the benefits of a peaceful solution.

Religious and spiritual groups represent another important sector of civil society and deserve greater attention because of their important linkages in society. As confirmed by the Panel of Eminent Persons on United Nations-Civil Society Relations "(t)hese groups provide powerful community leadership, shape public opinion, provide advice on ethical matters, facilitate reconciliation between conflicting communities and identify the needs of vulnerable groups."

In the light of the above, the public debate may address the following questions:

- How can the Security Council harness the actual and potential contributions and roles of non-governmental and civil society organizations in the development of a strategy for comprehensive conflict prevention and the pacific settlement of disputes in line with Chapter VI of the Charter?
- How can the Security Council and non-governmental and civil society organizations collaborate in the overall conflict prevention strategies as well as in various phases or stages of dispute settlement?
- How can the Security Council mobilize the non-governmental and civil society organizations to play a more active role in pursuit of "other peaceful means" to settle disputes, such as by encouraging informal dialogues and contacts between and among parties or constituencies of parties to disputes?
- In addition to existing mechanisms (e.g., the Arria formula), what cooperative framework could be fostered in order for the Security Council and non-governmental and civil society organizations to have a smooth working relationship to safeguard international peace and security?